

**UNITED STATES DISTRICT COURT**  
**DISTRICT OF MAINE**

JASON MCGAREY,

Plaintiff

v.

Civil No. 05-134-P-C

YORK COUNTY, *et al.*,

Defendants

Gene Carter, Senior District Judge

**ORDER GRANTING DEFENDANT DUBOIS'  
UNOPPOSED MOTION TO SET ASIDE DEFAULT AND DISMISS**

Default was entered against Defendants Daniel Dubois and Roger Lanoie on November 1, 2005, after both failed to file a responsive pleading within the time provided by Federal Rule of Civil Procedure 12. (Docket Item No. 7). On December 6, 2005, Defendants moved to set aside the defaults, arguing that good cause exists to do so. (Docket Item No. 14). Prior to the Court ruling upon Defendants' Motion, Defendant Dubois filed the instant Motion, representing that Plaintiff now acknowledges that he does not have a basis for a claim against Defendant Dubois. The Motion also states that Plaintiff's counsel has agreed that the default entered against Mr. Dubois should be lifted and that all claims against Mr. Dubois should be dismissed with prejudice. The Court has thoroughly reviewed the record, and, after considering all relevant factors, concludes that good cause exists to set aside the default. *See KPS & Associates, Inc., v. Designs By*

*FMC, Inc.*, 318 F.3d 1, 12 (1st Cir. 2003).

Accordingly, the Court **ORDERS** that Defendant Dubois' Motion to Set Aside Default be, and it is hereby, **GRANTED** and that the said default is **STRICKEN**. The Court **FURTHER ORDERS** that all claims against Defendant Dubois in this action be, and they are hereby, **DISMISSED** with prejudice.

/s/ Gene Carter  
**GENE CARTER**  
Senior United States District Judge

Dated at Portland, Maine this 6th day of February, 2006.

**Plaintiff**

**JASON MCGAREY**

represented by **BENJAMIN R. GIDEON**  
BERMAN & SIMMONS, P.A.  
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**LEAD ATTORNEY**  
**ATTORNEY TO BE NOTICED**

V.

**Defendant**

**YORK COUNTY**

represented by **MICHAEL J. SCHMIDT**  
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**LEAD ATTORNEY**  
**ATTORNEY TO BE NOTICED**

**Defendant**

**PHILIP G COTE**  
*in his individual and official  
capacities*

represented by **MICHAEL J. SCHMIDT**  
(See above for address)  
**LEAD ATTORNEY**  
**ATTORNEY TO BE NOTICED**

**Defendant**

**ROGER LANOIE**  
*in his individual and official  
capacities*

represented by **JOHN J. WALL, III**  
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**LEAD ATTORNEY**  
**ATTORNEY TO BE NOTICED**

**MICHAEL J. SCHMIDT**  
(See above for address)  
**LEAD ATTORNEY**  
**ATTORNEY TO BE NOTICED**

**Defendant**

**DANIEL DUBOIS**  
*in his individual and official  
capacities*  
**TERMINATED: 02/06/2006**

represented by **JOHN J. WALL, III**  
(See above for address)  
**LEAD ATTORNEY**  
**ATTORNEY TO BE NOTICED**

**MICHAEL J. SCHMIDT**  
(See above for address)  
**LEAD ATTORNEY**  
**ATTORNEY TO BE NOTICED**

**Defendant**

**JANE OR JOHN DOES 1**

**Defendant**

**JANE OR JOHN DOES 2**